

21 C.J.S. Courts § 342

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Courts

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X. Clerks of Courts

D. Liabilities and Criminal Responsibility

§ 342. Liability for funds

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West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  70, 72

Generally, a clerk of court is liable for any loss resulting from his or her default with regard to money paid into court and legally received by the clerk.

Generally, a clerk of court is liable for any loss resulting from his or her default with regard to money paid into court and legally received by the clerk.¹ A clerk who pays the balance of a defendant's bail bond deposit to victims of the defendant will be required to return the balance where, although the trial court orders the defendant to pay restitution, the trial court never authorizes payment of restitution from the defendant's bail bond deposit.²

Under a statute providing that public officials assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds belonging to the public entity in which they are employed, a clerk is not personally liable for fines and forfeitures collected by the court but not deposited into the public treasury where the funds are used exclusively to pay the court's operating expenses.³

A civil litigant's allegations that a clerk of court systematically charged and collected from litigants fees in excess of or not authorized by state statutes states deprivation of property without due process of law as required to establish a due process claim under a federal civil rights statute.⁴

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Footnotes

- 1 Ala.—*Shelley v. Thomas*, 232 Ala. 227, 167 So. 316 (1936).
Cal.—*Leach v. Dinsmore*, 22 Cal. App. 2d Supp. 735, 65 P.2d 1364 (App. Dep't Super. Ct. 1937).
- 2 Ill.—*People v. Fulkerson*, 326 Ill. App. 3d 1124, 261 Ill. Dec. 272, 762 N.E.2d 1199 (4th Dist. 2002).
- 3 La.—*City Court of Oakdale v. City of Oakdale*, 922 So. 2d 739 (La. Ct. App. 3d Cir. 2006), writ denied, 927 So. 2d 313 (La. 2006).
- 4 U.S.—*Woodard v. Andrus*, 419 F.3d 348 (5th Cir. 2005).

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